

1979 WL 42800 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 7, 1979

*1 James A. Bell, Esquire
Dorchester County Attorney
Post Office Box 905
St. George, South Carolina 29477

Dear Mr. Bell:

You have requested an opinion from this Office as to whether or not the Dorchester County Council (Council), upon removing the county administrator, is authorized to appoint or employ immediately an interim replacement. In my opinion, it cannot do so until either a hearing is held pursuant to [Section 4-9-620, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, and a decision reached as a result thereof or the statutory time for requesting such a hearing has elapsed.

[Section 4-9-620 of the 1976 Code](#) provides in part as follows:

If the council determines to remove the county administrator, he shall be given a written statement of the reasons alleged for the proposed removal and the right to a hearing thereon at a public meeting of the council. Within five days after the notice of removal is delivered to the administrator he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than twenty days nor later than thirty days after the request is filed . . . The removal shall be stayed pending the decision at the public hearing. [Emphasis added.]

This language indicates to me that the removal of the administrator is not final until either a hearing pursuant to written and timely request is held and a decision reached as a result of that hearing or the statutory time for requesting such a hearing has passed. Accordingly, the Council, upon giving the administrator the required written statement of reasons for his proposed removal, must wait until at least five (5) days after delivery thereof to the administrator before it can appoint or employ an interim replacement. If, within five days of receipt of the notice of removal, the administrator should file a request for a hearing on the matter, then the Council must wait until after the hearing is held and its decision reached as a result of that hearing before appointing or employing a new county administrator.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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